

112TH CONGRESS  
2D SESSION

# H. R. 6037

To include focusing on credit availability in the mission of each Federal banking regulator, to provide insured depository institutions with certain amortization authority and authority to include allowances for loan and lease losses when calculating the institution's capital, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2012

Mr. COFFMAN of Colorado (for himself and Mr. PERLMUTTER) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To include focusing on credit availability in the mission of each Federal banking regulator, to provide insured depository institutions with certain amortization authority and authority to include allowances for loan and lease losses when calculating the institution's capital, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the "Small Business Lend-  
5       ing for Jobs Act of 2012".

1   **SEC. 2. FOCUS ON CREDIT AVAILABILITY.**

2           (a) MISSION MODIFICATION.—

3               (1) IN GENERAL.—In addition to the missions  
4               of the Federal banking agencies included in other  
5               law, the Federal banking agencies shall include fo-  
6               cusing on—

7                   (A) generally fostering and facilitating  
8                   credit availability to customers of insured de-  
9                   pository institutions, so long as that credit is  
10                  provided in a safe and sound manner; and

11                  (B) generally assisting insured depository  
12                  institutions to provide such credit responsibly,  
13                  so as to encourage business development and  
14                  employment, by utilizing regulatory policies and  
15                  procedures that promote credit availability in a  
16                  safe and sound manner.

17               (2) PROHIBITION.—In carrying out the ele-  
18               ments of their missions added by paragraph (1), the  
19               Federal banking agencies may not require or pres-  
20               sure insured depository institutions, directly or indi-  
21               rectly, to provide particular kinds of credit or on  
22               particular terms.

23               (3) IMPLEMENTATION PLAN.—Not later than  
24               the end of the 120-day period beginning on the date  
25               of the enactment of this Act, each Federal banking

1 agency shall issue a report to the Congress con-  
2 taining an implementation plan that addresses—

3 (A) how the agency will modify specific  
4 rules, regulations, interpretative opinions, and  
5 other policies of the agency to address the  
6 modification of the agency's mission under  
7 paragraph (1);

8 (B) how and when those modifications will  
9 be put into effect, but in no case later than the  
10 end of the 180-day period beginning on the  
11 date of the enactment of this Act; and

12 (C) how examiners, other agency personnel  
13 who have direct contact with insured depository  
14 institutions, and the supervisors of those agency  
15 personnel are to be trained and evaluated on  
16 their individual performance on implementation  
17 of the modified mission.

18 (4) REPORTS.—Not later than the end of the  
19 360-day period beginning on the date of the enact-  
20 ment of this Act, and annually thereafter, each Fed-  
21 eral banking agency shall issue a report to the Con-  
22 gress on—

23 (A) a current assessment of the degree to  
24 which the agency's policies foster and facilitate  
25 the availability of credit to customers of insured

1           depository institutions in a safe and sound  
2           manner;

3           (B) the agency's progress on implementing  
4           the modified mission;

5           (C) results of ongoing evaluation methods  
6           to assess how the agency and its individual ex-  
7           aminers, other employees who have direct con-  
8           tact with insured depository institutions, and  
9           supervisors of those personnel have performed  
10          in implementing the modified mission; and

11          (D) corrective measures the agency will  
12          take to address deficiencies in accomplishing  
13          the requirements described under subpara-  
14          graphs (A) through (C).

15          (b) CREDIT AVAILABILITY COUNCIL.—There is here-  
16          by established the Credit Availability Council, which  
17          shall—

18           (1) consist of the head of each Federal banking  
19           agency, or a designee; and

20           (2) coordinate the efforts of the Federal bank-  
21          ing agencies in—

22           (A) fostering and facilitating credit avail-  
23           ability to customers of insured depository insti-  
24           tutions, so long as that credit is provided in a  
25           safe and sound manner; and

(B) assisting insured depository institutions to provide such credit responsibly, so as to encourage business development and employment.

5 (c) DEFINITIONS.—For purposes of this section:

(1) FEDERAL BANKING AGENCY.—The term “Federal banking agency” means—

(A) the Board of Governors of the Federal Reserve System;

10 (B) the Bureau of Consumer Financial  
11 Protection;

16 (E) the National Credit Union Administra-  
17 tion.

(2) INSURED DEPOSITORY INSTITUTION.—The term “insured depository institution” means—

(B) an insured credit union, as such term is defined under section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

#### **4 SEC. 3. COMMERCIAL REAL ESTATE LOAN LOSS AMORTIZA-**

#### **5 TION.**

6       (a) IN GENERAL.—For purposes of capital calcula-  
7 tion under the Financial Institutions Examination Coun-  
8 cil's Consolidated Reports of Condition and Income, an in-  
9 sured depository institution with assets of less than  
10 \$10,000,000,000 may choose to amortize any loss or  
11 write-down, on a quarterly straight-line basis over the 7-  
12 year period beginning with the month in which such loss  
13 or write-down occurs, incurred with respect to—

- 14                   (1) a loan secured by commercial real estate; or  
15                   (2) other real estate owned.

16       (b) EFFECTIVE DATE.—The provisions of this sec-  
17 tion shall apply to capital calculations described under  
18 subsection (a) occurring after the date of the enactment  
19 of this Act for losses and write-downs that occurred—

- 20                   (1) on or after January 1, 2007; and  
21                   (2) before the end of the 2-year period begin-  
22                   ning on the date of the enactment of this Act.

23 (c) DISCLOSURE ON CONSOLIDATED REPORTS OF  
24 CONDITION AND INCOME.—With respect to an insured de-  
25 pository institution choosing to make use of the amortiza-

1 tion provided for under subsection (a), such institution  
2 shall, on the Financial Institutions Examination Council's  
3 Consolidated Reports of Condition and Income, disclose  
4 the difference between the amount of the institution's cap-  
5 ital when calculated using such amortization and when  
6 calculated without using such amortization.

7 (d) REPORTING ON PRIOR LOSSES AND WRITE-  
8 DOWNS.—An insured depository institution that chooses  
9 to make use of the amortization provided for under sub-  
10 section (a) with respect to losses and write-downs occur-  
11 ring prior to the date of the enactment of this Act shall  
12 do so by making a one-time adjustment to the institution's  
13 Consolidated Reports of Condition and Income.

14 (e) DEFINITIONS.—For purposes of this section:

15 (1) INSURED DEPOSITORY INSTITUTION.—The  
16 term “insured depository institution” shall have the  
17 meaning given such term under section 3(c)(2) of  
18 the Federal Deposit Insurance Act (12 U.S.C.  
19 1813(c)(2)).

20 (2) OTHER REAL ESTATE OWNED.—The term  
21 “other real estate owned” shall have the meaning  
22 given such term under section 34.81 of title 12,  
23 Code of Federal Regulations.

## **1 SEC. 4. INCLUSION OF LOAN LOSS RESERVES IN COMPUTA-**

## **2 TION OF CAPITAL RESERVES.**

3       (a) IN GENERAL.—The appropriate Federal banking  
4 agencies shall issue regulations to permit an insured de-  
5 pository institution to include all of such institution's al-  
6 lowance for loan and lease losses when computing such  
7 institution's capital for purposes of satisfying risk-based  
8 capital requirements.

9           (b) EXCEPTION FOR LOSS CLASSIFICATION.—Not-  
10 notwithstanding subsection (a), this section shall not apply  
11 to allowances for loans or lease losses where such loan or  
12 lease is classified as a “loss”.

13 (c) RULEMAKING.—The appropriate Federal banking  
14 agencies shall issue regulations required under this section  
15 no later than the end of the 120-day period beginning on  
16 the date of the enactment of this Act.

17       (d) REPORT TO THE CONGRESS.—Not later than 1  
18 year after the date of the enactment of this Act, and annu-  
19 ally thereafter, each appropriate Federal banking agency  
20 shall issue a report to the Congress on—

21                   (1) the implementation of the provisions of this  
22 section:

(3) the impact of the provisions of this section on the safety and soundness of insured depository institutions.

4 (e) DEFINITIONS.—For purposes of this section:

5                   (1) ALLOWANCE FOR LOAN AND LEASE  
6 LOSSES.—

1       the Federal Deposit Insurance Act (12 U.S.C.  
2       1813(c)(2)).

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